

October 30, 2007

**TO: Bipartisan Senate Committee of Review
From: Office of Legislative Research**

**DISCIPLINARY CASES IN OTHER STATE LEGISLATURES—BRIEFING REPORT
ON EXPULSION, CENSURE, REPRIMAND, OR NO ACTION**

SUMMARY

Of the 86 disciplinary cases that we included in our October 2, 2007 report, we found 10 cases of expulsion, 16 cases of censure, 8 cases of reprimand, and 17 cases where the legislature took no action after initiating an investigation.

All 10 of the expulsion cases involved some type of criminal conduct and most (seven out of 10) involved public conduct.

- Five cases involved criminal conduct related to the legislator's office (bribery, vote selling, extortion, and rigging elections) and a sixth involved both criminal conduct and ethical violations related to the legislator's office (accepting gifts, not disclosing a contract with a state agency, mixing legislative and private budgets, and using the prestige of office for personal gain).
- Three cases involved private criminal conduct (tax fraud, embezzling funds from a legal client, and federal tax violations).
- One case combined private criminal conduct (drunk driving and domestic violence) and public, non-criminal conduct (sexually explicit photos on a Senate computer and verbal abuse of staff).

Of the 16 cases resulting in censure, 12 involved either public or private criminal conduct and the four cases that did not involved conduct related to the legislator's office.

- Four cases involved public criminal conduct (spending money from fundraisers for personal uses, bribery, violating conflict of interest laws, sexual advances, and inappropriate touching).
- Three cases consisted of both public and private conduct and both criminal and non-criminal conduct: (1) harassing people for campaign contributions, pressuring someone to drop charges against his brother, and intimidation; (2) threatening a commissioner and drunk driving arrests; and (3) writing bad checks and campaign disclosure report violations.

- Four cases involved public conduct that was not criminal (improper advances toward a page, employee, and lobbyist; using position to gain sexual favors from a page; berating senators in an argument; and authoring legislation to impeach a probate judge who ruled in his mother's case).
- Four cases involved private criminal conduct (misstatements on a loan application for a private business venture, smuggling a small amount of marijuana, soliciting prostitution, and shoplifting) with a fifth involving both private criminal and non-criminal conduct (misappropriation of funds that violated an attorney's ethical obligations and may also have been criminal).

The eight cases of reprimand all involved public, non-criminal conduct.

In some cases, disciplining a legislator by censure or reprimand also included other sanctions such as loss of leadership or committee positions.

In 16 of the 17 cases with no action, the conduct investigated was public and non-criminal. The other case involved public, criminal conduct for abusing Senate phone privileges but the Senate took no action because the committee's recommendations expired at the end of the session and the legislator lost a primary election.

We also include an additional eight cases where a legislator resigned after a committee recommended discipline.

TABLE OF DISCIPLINARY CASES

Table one below organizes these cases by final outcome, based on action by the appropriate chamber. The table (1) briefly describes the conduct involved; (2) indicates whether the case involved public conduct related to the legislator's office or private conduct; (3) indicates whether the case involved criminal or non-criminal conduct; and (4) describes the stage of any criminal proceedings taking place before, during, or after the legislative investigation process, if we have that information.

CONDUCT DISCIPLINED	PUBLIC CONDUCT	PRIVATE CONDUCT	CRIMINAL CONDUCT	NON-CRIMINAL CONDUCT	STAGE OF CRIMINAL CASE AT TIME OF LEGISLATIVE INVESTIGATION
EXPULSION					
• Three drunk driving convictions. • Two alleged physical altercations with his fiancée. • Sexually explicit photos on his Senate-owned computer. • Alleged verbal abuse of Senate staff. (Sen. David Lave, Michigan, 2001)	X	X	X	X	<ul style="list-style-type: none"> Previously convicted on the drunk driving charges but proceedings on domestic violence were pending during the legislative investigation.
• Accepted gifts from health care companies and a state college. • Failed to disclose a contract with a state agency. • Mixed legislative and private office budgets. • Used the prestige of his office for personal gain. • The committee limited its investigation to potential violations of public ethics laws. (Sen. Larry Young, Maryland, 1998)			X	X	<ul style="list-style-type: none"> After expulsion, the legislator was indicted for demanding bribes, extortion, and filing a false state income tax return. It appears that at least some charges were felonies. A jury acquitted him of all criminal charges. The judge dismissed four counts of extortion.
• Convicted of felonious bribery and receiving a bribe • Offered to share a bribe with another legislator in return for a vote in favor of the state purchasing two Canadian firefighting planes. (Sen. George H. Hohman, Jr., Alaska, 1982)			X	X	<ul style="list-style-type: none"> Convicted before legislature investigated.
• Indicted in an undercover operation on vote selling. • Videotaped taking money from a paid informant for support of legislation to legalize casino gambling. The legislation did not pass. (Sen. Carolyn Walker, Arizona, 1991)			X	X	<ul style="list-style-type: none"> Charges pending when legislature investigated.
• Convicted of extortion, conspiracy to commit extortion, and conspiracy to violate the Travel Act in connection with performance as senator. Some, if not all, charges were felonies. (Sen. Joseph J.C. DiCarlo, Massachusetts, 1977)				X	<ul style="list-style-type: none"> Convicted before legislature investigated. Conviction appeal pending at time of expulsion.
• Convicted of felony extortion related to taking a 10% fee for arranging leases of office space to state agencies. (Sen. Frank Mazzei, Pennsylvania, 1975)			X	X	<ul style="list-style-type: none"> Convicted before legislature investigated.
• Convicted on federal felony vote tampering charges for rigging (Sen. John Gutfreund, New York, 1990)	X			X	<ul style="list-style-type: none"> Convicted before legislature investigated.

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<ul style="list-style-type: none"> As a former welfare commissioner, tried for bribery and perjury (two bribery trials ended in a hung jury and he was found not guilty of perjury). (Sen. W. Bernard Smith, West Virginia, 1972) Convicted of federal tax fraud charges. (Sen. Guy H. Jones, Arkansas, 1974) Convicted of embezzling funds from a legal client (a felony) before becoming a legislator. (Rep. Monte Gerald, Michigan, 1978) Pled guilty to a misdemeanor (the crime is now a felony) for violating federal tax laws. Admitted other criminal wrongdoing at his sentencing hearing. (Sen. Theo Mitchell, South Carolina, 1994) 	X	X	X		<ul style="list-style-type: none"> Expelled after conviction.
	X	X	X		<ul style="list-style-type: none"> Convicted before legislature investigated. Conviction appeal pending at time of legislative investigation.
	X	X	X		<ul style="list-style-type: none"> Convicted before legislature investigated.
	X	X	X		<ul style="list-style-type: none"> Convicted before legislature investigated.
CENSURE					
<ul style="list-style-type: none"> Allegedly harassed several individuals with anonymous calls, bullied them, and pressured them to make campaign contributions. Pressured a businessman into giving a campaign contribution with the threat of doing business with a competitor. Pressured a store owner to drop shoplifting charges filed against his brother, a state senator. Made false statements about several individuals. Engaged in other acts of intimidation, threats, and harassment. (Rep. Jeff Bertram, Minnesota, 1996) 		X	X	X	<ul style="list-style-type: none"> Law enforcement agencies were asked to investigate allegations of misusing state campaign funds and coercing people that surfaced in the legislative investigation.

CONDUCT DISCIPLINED	PUBLIC CONDUCT			PRIVATE CONDUCT			NON-CRIMINAL CONDUCT			CRIMINAL CONDUCT			STAGE OF CRIMINAL CASE AT TIME OF LEGISLATIVE INVESTIGATION		
<ul style="list-style-type: none"> Pled guilty to felony theft charges, admitting to writing 76 bad checks. The original charge of theft of over \$2,500 was reduced to theft of over \$250 in the plea. Even though the crime was a felony, the legislator received a misdemeanor sentence and it was therefore considered a misdemeanor. Filed late and incomplete campaign disclosure reports for four years (which could involve misdemeanor or gross misdemeanor violations). <p>(Rep. Randy Staten, Minnesota, 1986)</p>	X			X	X		X	X		X	X		<ul style="list-style-type: none"> Convicted before legislature investigated. 		
<ul style="list-style-type: none"> Threatened the public safety commissioner when the State Patrol turned down his request to fly him to the funeral of a former governor. Had three drunk driving arrests in less than seven weeks. The legislator pled guilty to all three DWIs (they appear to all be misdemeanors). <p>(Rep. Bob Johnson, Minnesota, 1985)</p>	X			X	X		X	X		X	X		<ul style="list-style-type: none"> The third drunk driving arrest occurred after the legislature initiated an investigation and while the legislator was distraught over recent events and threatening suicide in calls from his car phone. Criminal proceedings continued during the committee investigation. 		
<ul style="list-style-type: none"> Over seven years, held a series of com roast galas raising \$64,000 from supporters, lobbyists, and others who had business before the legislature. The legislator used the money for personal expenses such as car repairs, hotel stays, and meals. Pled guilty to a misdemeanor for failing to report the gifts. The attorney general did not find any evidence that he did political favors for those who donated. <p>(Rep. Gene Chandler, New Hampshire, 2005)</p>							X			X			<ul style="list-style-type: none"> Pled guilty after the legislative committee received a complaint but before the committee's first hearing. 		
<ul style="list-style-type: none"> Charged with solicitation of bribery (a felony) and demanding a bribe by a public official and two other felony counts alleging that he sought \$15,000 for his consulting services in exchange for state funding. <p>(Rep. Ronald G. Olgun, New Mexico, 1991)</p>	X									X					

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<ul style="list-style-type: none"> Allegedly made sexual advances towards and inappropriately touched an 18-year-old page at a motel. (Sen. Dan Sutton, South Dakota, 2006) Casting votes in violation of Senate conflict of interest rules. (Sen. Peter Babalas, Virginia, 1987) 	X		X		<ul style="list-style-type: none"> The attorney general investigated for possible criminal charges. At the time of censure, no charges had been brought. It appears that he was never charged. Before the legislative investigation, one criminal misdemeanor count for alleged violations of state conflict of interest laws was dismissed and another resulted in acquittal.
<ul style="list-style-type: none"> Used or attempted to use position to gain sexual favors from a 17-year-old legislative page. (Sen. George Jacko, Alaska, 1993) Berated two female senators during a State House argument over which committee should handle certain legislation. (Rep. John Michael, Maine, 2001) 	X			X	
<ul style="list-style-type: none"> Authored legislation for the third time to impeach a probate judge involved in the case of his mother's estate. (Rep. Roland Hermon, New Hampshire, 1998) Made improper advances toward a page, legislative employee, and lobbyist. Allegedly made a pass at a 16 year old page. Three other women then came forward with allegations. (Rep. Ken Miller, North Carolina, 1995-6) 	X			X	
<ul style="list-style-type: none"> Admitted to misappropriating thousands of dollars from an estate for which he was executor and attorney. Resigned as an attorney (a consent disbarment) based on seven charges of professional misconduct in his private law practice including improperly converting \$7,500 from a client's estate to personal use and co-mingling \$3,400 in funds between clients' estates. (Sen. William Duffield, Pennsylvania, 1975) 			X	X	<ul style="list-style-type: none"> The investigating committee found that two of the charges involved elements of criminal misconduct. At the time of the committee report, no criminal charges had been filed.

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<ul style="list-style-type: none"> Represented others before a state agency for compensation and sought a benefit inconsistent with the proper performance of his public duties. Worked on changes to a grant program while continuing to consult with cities and counties who applied for grants. When the agency enacted a rule that he believed was contrary to legislative intent, contacted the agency to clarify the interpretation which benefited the member's client or business interest. On behalf of his consulting company, phoned an agency employee to express concerns about misstated facts in monitoring reports the employee prepared. (Rep. Michael E. Langton, Florida, 1992) Alleged sexual discrimination and sexual harassment of two female aides. Used aides for non-legislative duties. (Rep. Gene Flinn, Florida, 1980) Failed to file mandatory campaign finance reports indicating personal wealth and campaign contributions received. Ignored fines the State Ethics Commission imposed for the violations. (Rep. Arnold Ragas, Georgia, 2000) Displayed a sex toy in the House chamber where it was allegedly shown to young pages. Denied intentionally showing it to children. (Rep. Jimmy Benefield, Georgia, 1993) Threatened the Department of Labor and Industrial Services' funding in a letter if the department's director did not grant the legislator's son an electrical contracting license. (Rep. Ray Infanger, Idaho, 1990) Covered up that he accepted, in his job as consultant, a state contract related to legislation he authored. (Sen. Dallas Sams, Minnesota, 1999) 			X	X	
				X	
				X	
				X	
				X	

CONDUCT DISCIPLINED	PUBLIC CONDUCT	PRIVATE CONDUCT	CRIMINAL CONDUCT	NON-CRIMINAL CONDUCT	STAGE OF CRIMINAL CASE AT TIME OF LEGISLATIVE INVESTIGATION
• Authored legislation to impeach a probate judge involved in the case of his mother's estate. <i>(Rep. Roland Hemon, New Hampshire, 1994)</i>	X			X	
NO ACTION/DISMISSAL					
• Abused Senate phone privileges. Accused of letting family and friends use his Senate phone access code for personal long distance calls.			X		• Pled guilty before the legislature investigated.
• Previously pled guilty to misconduct of a public officer, a gross misdemeanor (it is unclear whether he faced other charges).	X				
• The committee recommendations expired at the end of session and the legislator lost a primary election. <i>(Sen. Florian Chmielewski, Minnesota, 1996)</i>					
• Accused of taking personal trips at state expense. <i>(Sen. Paul Fischer, Alaska, 1989)</i>	X			X	
• Allegedly used forged documents and his office to arrange jobs for a subcontractor. In return the subcontractor agreed to give a cash advance and ultimately paid money over 2.5 years. The contractor also said he made a loan to the legislator that was not repaid and not reported on conflict of interest forms.				X	
• The investigating committee dismissed the complaint because the allegations stemmed from actions that occurred either before the applicable ethics law was in place or outside the law's two-year statute of limitations. <i>(Sen. Al Adams, Alaska, 1983)</i>					X
• Failed to report a liability on one financial disclosure form and two liabilities on another.					
• In a consent decree, the legislator and investigating committee agreed that the violations were not willful or intentional and no additional penalty was warranted. <i>(Rep. Marvin Couch, Florida, 1996)</i>	X				

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					INVESTIGATION ALLEGATION DISPOSITION
<ul style="list-style-type: none"> Failed to report certain assets and income on various financial disclosure forms over a four year period. In a consent decree, the legislator and investigating committee agreed that the Ethics Commission already imposed a penalty and the House should take no action. (Rep. Evelyn J. Lynn, Florida, 1995) Two legislators were allegedly improperly paid for work they performed for a non-profit arm of the Georgia Commission on the Holocaust. One was paid under a contract and the other received money for fund raising, reimbursement for a trip, and picture framing. The committee's investigation revealed no fraud or other wrongdoing because no state appropriated money was used to pay the legislators. (Reps. Nan Orrock and Michele Henson, Georgia, 1999) Took another senator's outgoing mail from the sergeant at arm's desk to determine if the mail volume limit was exceeded. The committee found that the senator did not violate any Senate rules; however, his conduct showed a lack of good judgment. Unanimously recommended no formal action and an apology. (Sen. John Peavey, Idaho, 1990) Took a position with a political action committee before his term ended. Before the committee took any action, the legislator returned his pay and quit the job. The committee dismissed the complaint. (Sen. Stewart Iverson, Iowa, 2006) Alleged conflict of interest for (1) sitting in on an environmental protection commission meeting regarding a fine of his employer and (2) quashing legislation as chairman of the Natural Resources Committee to prevent new regulations that would affect his employer. The committee dismissed the complaint. (Sen. Mike Sexton, Iowa, 2001) 	X	X	X		
				X	
				X	
				X	

CONDUCT DISCIPLINED	PUBLIC CONDUCT	PRIVATE CONDUCT	Criminal Conduct	Non-Criminal Conduct	Stage of Criminal Case at Time of Legislative Investigation
<ul style="list-style-type: none"> Controversial statements about gays in the Holocaust and AIDS in Africa. The committee failed to find probable cause for a violation. (Rep. Arlon Lindner, Minnesota, 2003) 	X			X	
<ul style="list-style-type: none"> Conflict of interest based on a vote on a funding measure dealing with charter school leases while the legislator owned and leased a building to a charter school. The committee dismissed the complaint. (Rep. Jim Abele, Minnesota, 2001) 	X			X	
<ul style="list-style-type: none"> Conflict of interest relating to a consultant contract. Sponsored a bill that provided funding to control beavers whose dams caused floods. After the bill became law, the legislator was hired as a consultant by the district that administered the program. He was paid with money coming from the district's account derived from property taxes. The investigating subcommittee found that it was not a conflict of interest because no money appropriated as a result of his legislative work was used directly or indirectly to pay him, he took reasonable steps to avoid a conflict of interest, and there was no evidence that he discussed the job while the bill was pending. (Sen. LeRoy Stumpf, Minnesota, 1996) 			X		
<ul style="list-style-type: none"> Violated House Rules by releasing confidential documents and discussing actions of a closed House Ethics Committee hearing. The complaint was withdrawn and the ethics committee opened its hearing to the public. (Rep. Tom Workman, Minnesota, 1996) 		X		X	
<ul style="list-style-type: none"> Authored legislation for the second time to impeach a probate judge involved in the case of his mother's estate. Because the House was not in session, the committee's recommendation was not considered. (Rep. Roland Hemon, New Hampshire, 1996) 		X		X	

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<ul style="list-style-type: none"> Failed to disclose real estate holdings for five years. The investigating committee found no violation. (Rep. Jim Aslanides, Ohio, 2005) Offered a position by a lobbyist. The investigating committee recommended no disciplinary action. (Rep. Melvin Brown, Utah, 1998) 	X			X	
<ul style="list-style-type: none"> Accused of applying undue pressure on the executive branch on a constituent's behalf. The investigating committee recommended no disciplinary action. (Sen. Paul Rogers, Utah, 1986) 	X			X	
					RESIGNATION
<ul style="list-style-type: none"> Assaulted his wife after using his legislative position to avoid a drunk driving arrest. Stopped by police after driving too fast and drifting. Not cited or arrested despite a high preliminary breath test. Another police officer later saw the legislator run a stop sign but did not stop him after recognizing the legislative plates. After his arrest based on a domestic dispute, he expressed his concern about the press and requested to speak to the police chief. Pled guilty to offensive touching (a misdemeanor) for grabbing his wife's arm during a fight. Filled a misleading affidavit with the committee. Resigned before House debate on censure resolution. (Rep. John Atkins, Delaware, 2007) 				<ul style="list-style-type: none"> Pled guilty before legislative investigation began. 	

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<ul style="list-style-type: none"> Wrote bad checks with "State of New Hampshire" written on them. Used his title to get a parking space reserved for school officials and threatened officials when told to stop parking there. The committee voted unanimously for expulsion. The legislator resigned before the House took any action. <i>(Rep. John Kems, New Hampshire, 2004)</i> Convicted of extortion, conspiracy, and money laundering after accepting money in exchange for supporting legislation. At least some convictions were felonies. A committee put aside a motion to expel when the legislator announced his resignation. When he did not set a resignation date, the committee voted to expel and the legislator resigned before a vote on a resolution. <i>(Sen. Frank Hill, California, 1994)</i> Employed a state worker in his art gallery and used public funds to pay the person. Originally charged with a felony but pled guilty to the misdemeanor of taking less than \$100 under false pretenses. The investigative committee unanimously recommended expulsion. The legislator resigned prior to a vote on expulsion. <i>(Sen. Henry Stallings, Michigan, 1998)</i> County democratic organization secretary placed no-show employees on the legislator's payroll. The investigating committee recommended that she (1) resign and (2) be censured and face other legislative sanctions (expulsion was not an option under the state constitution). The legislator later resigned. <i>(Assemblywoman Gerdi E. Lipschutz, New York, 1987)</i> 	<input checked="" type="checkbox"/> X <input checked="" type="checkbox"/> X			<ul style="list-style-type: none"> After the legislative investigation began, he was charged with four counts of passing bad checks. After his resignation, he pled guilty to writing bad checks. <ul style="list-style-type: none"> Convicted before the legislature acted. <ul style="list-style-type: none"> Pled guilty after the legislative investigation began. <ul style="list-style-type: none"> The legislator was granted immunity in criminal proceedings in exchange for her testimony.

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<ul style="list-style-type: none"> Felony conviction for conspiracy to buy votes, obstruction of justice, and vote buying. The investigating committee found misconduct but the Senate vote to expel failed. He resigned after losing his case on appeal. (Sen. Eugene Carmichael, South Carolina, 1982) 	X		X		<ul style="list-style-type: none"> At the time of the Senate vote, he was appealing his conviction.
<ul style="list-style-type: none"> Indicted for consenting to accept a bribe. The investigating committee recommended censure but no other action because the legislator had already resigned. It is unclear whether the entire House ever acted on censure. (Rep. Cox, Texas, 1957) 			X		
<ul style="list-style-type: none"> Introduced legislation to change the method of measuring the required distance between a liquor store and a school after the legislator and his wife were denied a license to sell liquor from their store. Gave false or deceptive information to the Senate State Affairs Committee about the origin of the legislation and his potential benefit. The investigating committee recommended censure and loss of leadership responsibilities. (Sen. Jack Noble, Idaho, 2005) 			X		X